

**Carlisle Conservation Commission  
Minutes  
March 28, 2019**

Pursuant to the notice filed with the Town Clerk, Chair Angie Verge called the meeting to order in the Clark Room at the Town Hall at 7:07 p.m. Also present were Vice Chair Melinda Lindquist, Commissioners Alex Parra, Lee Tatistcheff and Conservation Administrator Sylvia Willard. Not present were Commissioners Ken Belitz, Dan Wells and Helen Young.

**Certificates of Compliance:**

**(DEP 125-468) 92 Kimball Road; Owner: Michael Davin; Project: Construction of a portion of a house and grading to occur within the 100 foot Buffer Zone of a BVW; Issued: 4/29/1997**

The request for a COC submitted by the previous owner last summer was denied due several deficiencies that have since been addressed, with the exception of the unpermitted installation of chain link fencing within the 100-foot Buffer Zone of a BVW. The property has since been sold and the new owners have requested approval to have the fencing removed. Their contractor has submitted a proposal to remove the fencing without the use of heavy equipment in order to minimize disturbance to the resource area.

Upon review of the proposal, *Tatistcheff moved to issue a "friendly" Enforcement Order to allow the removal of the unpermitted fencing in accordance with the plan submitted by Robert Demers of Concord Removal Service. Lindquist seconded the motion and all voted in favor.*

**Land Use Permits:**

*(1) Tatistcheff moved to issue a Land Use Permit to **Tom and D'Ann Brownrigg** to conduct a **Public Woodcock Walk at Foss Farm** on April 13, 2019 (rain date April 14, 2019) from 7:30 p.m. to dark, Lindquist seconded the motion and all voted in favor.*

*(2) Tatistcheff moved to take up the request for a Land Use Permit that was submitted by MK3 Creative after the Agenda had been posted, Lindquist seconded the motion and all voted in favor. Lindquist moved to issue a Land Use Permit to **Amy Genarro of MK3 Creative, LLC** to allow **crew parking at Foss Farm** for off-site filming on April 4, 2019 from 7 a.m. to 7 p.m. Tatistcheff seconded the motion and all voted in favor. MK3 Creative, LLC will be making a contribution of \$200 to the Conservation Gift Fund in appreciation for the use of the lot.*

**Carlisle Conservation Foundation (CCF) Public Nature Walks:** Alan Ankers, who was unable to attend the previous meeting when the 2019 Annual Land Use Permit was issued for 2019 CCF-sponsored Public Nature Walks, submitted the 2018 report of events held on Carlisle Conservation Lands in accordance with the terms of the permit.

**7:15 p.m. (DEP 125-1062) Notice of Intent, Continued Hearing**

**Applicant: Justin Delva**

**Project Location: 274 Heald Road**

**Project Description: Construction of an addition to the single-family house, a porch, a deck, and the removal of 22 trees all located within the 100-foot Buffer Zone of a Bordering Vegetated Wetland**

Verge opened the Continued Hearing under the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Bylaw.

Dan Gannon of Stamski and McNary, Inc. provided a review of his presentation of the originally-proposed plan he had provided at the previous hearing on February 28, 2019 in order to meet quorum requirements, since newly-appointed member Alex Parra had not yet been appointed by the BOS. Gannon's recap included proposed work,

the location of the BVW as delineated by B & C Associates, the location of a mitigation area and proposed erosion control measures. Parra asked for the distances of the proposed work from the BVW. Gannon said the revised plan dated March 7, 2019 shows the shed at 26.2 feet, the existing dwelling at 29.8 feet, and the deck at closest point is at 12 feet, noting the deck is proposed to be constructed on Sona tubes. Gannon said he had neglected to note for the record at the previous hearing that all trees proposed for removal have been deemed hazardous to the home by an arborist.

Gannon said the revised plan dated March 28, 2019 shows the originally proposed 12 plantings in Mitigation Area #1 have been replaced with Highbush Blueberry and Winterberry shrubs and Red Maples based on comments from the Commission at the previous hearing. An additional protected area, Mitigation Area #2, has been added to the plan subsequent to the Administrator's discovery of unpermitted clearing within the 100-foot Buffer Zone. At the suggestion of Commissioner Wells following a site visit, Gannon said this 2nd Mitigation Area is to be demarcated with Feno boundary markers with aluminum inserts stating "Do Not Disturb - Wetland Resource Area", spaced at approximately 50 feet apart, and will include a minimum of 20 plantings of the species included for Mitigation Area #1 as indicated on the Planting List. The revised plan also includes three proposed locations for staging the crane in the driveway in order to avoid the septic system/leach field and the removal of the proposed porch and deck.

Gannon was asked to clarify the purpose of varying types/colors used for tree markers since this may cause confusion for the tree contractor as to which trees are to be removed. Gannon said the property has had two different arborists evaluate the trees and he has been made aware that only those trees marked on the plan for removal are included and that a future filing would be required for any additional future tree removal they may wish to undertake.

With no further comments, *Verge said she would accept a motion to close the hearing for DEP #125-1062. The motion was moved by Tatistcheff, seconded by Lindquist and all voted in favor. Tatistcheff moved to issue a Standard Order of Conditions based on the revised Plan dated March 28, 2019, with the following Special Conditions: (1) no trees not identified on the Plan of Record for removal shall be removed; (2) FENO markers shall be installed by survey at the locations shown on the Plan of Record to demarcate the no disturb line and marked noting the area is a wetland resource area protected under the Wetlands Protection Act; (3) Mitigation Areas shall be planted with non-cultivar, straight native species plants; (4) monitoring reports submitted by a wetland scientist shall be provided each year for two years at the end of the growing season to ensure successful establishment of the plantings within the Mitigation Areas. Lindquist seconded the motion and all voted in favor.*

#### **7:30 p.m. (DEP 125-1064) Notice of Intent**

**Applicant: Dan Gainsboro, NOW Communities, LLC**

**Project Location: Bedford Road, Map 10 Parcel 4 Lot X**

**Project Description: Construction of 18 dwelling units, 9 of which proposed within the 100-foot Buffer Zone of a Bordering Vegetated Wetland, a 20-foot wide roadway with a crossing of an intermittent stream with an open bottom box culvert, sidewalks, stormwater management infrastructure and associated tree removal and grading.**

Verge opened the hearing under the Massachusetts Wetlands Protection Act and the Carlisle Wetlands Protection Bylaw.

Present were George Dimakarakos of Stamski and McNary and Dan Gainsboro of NOW Communities. The U.S. Postal Service Certified Mail receipts from the abutter notification mailing were submitted. Dimakarakos presented the plan for the 18-unit Residential Open Space Community, Woodward Village. Dimikarakos said the plan preserves a significant amount of open space by clustering the housing on approximately nine acres, preserving approximately 32 acres of open space. All structures within the 100-foot Buffer Zone are at or greater than 50 feet from the resource area in accordance with ROSC baseline design conditions. The two water supply wells were permitted under a previous NOI and have now been installed.

Dimakarakos said the project is presently under review by both the Planning Board and the Board of Health. BOH technical consultant, Rob Fredo, has done an initial review and has submitted his recommendations to the Planning Board as has PB technical consulting firm Nitch Engineering. Dimakarakos said they were present tonight to touch base with the Commission while the project is under review by other town boards in order to provide time for a thorough review and for opportunities to discuss and address concerns and questions that may arise earlier in the process. Dimakarakos presented the overview of the plan set, focusing on elements of the development located within jurisdictional areas, including the proposed roadway and sidewalks, the open bottom box culvert for the stream crossing which spans the entire wetland requiring no wetland fill, the permanent well access/maintenance gravel path, utility building, a sediment forebay and infiltration basin, subsurface chambers including roof drywells on some units and infiltration trenches.

Dimakarakos noted they are required to meet the state stream crossing design standards for fish and wildlife by providing a minimum of 1.2 times the bank full width openness ratio. Of the 18 proposed units, 9 are proposed entirely outside the 100-foot Buffer Zone. The stormwater design calculations have been submitted to the Planning Board and the Stormwater Pollution Prevention Plan (SWPPP) will be updated based on comments provided by Nitsch Engineering.

Comments and questions from the Commission followed. Wells, who was unable to attend, had previously expressed concern there had been no flagging of the stream bank resource area during the ANRAD process. Dimakarakos said he would see that this gets flagged at the crossing area. Verge asked what the plans are for property management relative to maintenance of land around the individual homes, since there is the potential for encroachment and the overuse of fertilizers and lawn chemicals, etc. Gainsboro said the development plan includes "exclusive use areas" associated with each of the units - the maintenance of which has not yet been determined and will likely depend somewhat on buyers and their inclinations. Also to be determined is the question of how bounds will be permanently marked. Parra requested copy of the Condominium Documents, which Dimakarakos agreed to provide.

There was also concern regarding the amount of proposed cut and fill associated with the development and with the need to incorporate parameters ensuring the fill that may be brought to the site be free of invasive plant materials. Dimakarakos said there will be a [substantial amount of] on-site cut and fill, with an estimated 12k yards of off-site material to be brought in as well. He explained the fill brought into the site will be used for the leaching field associated with the septic system and with the wetland crossing. Areas associated with the housing will be primarily cut and fill.

Dimakarakos will be scheduling a meeting with Willard to review the SWPPP and to discuss the construction sequencing plan relative to tree clearing. The Commission will conduct a site visit date t/b/d prior to the next meeting.

With no further comments, *Tatistcheff moved to continue the hearing for DEP 125-1064 April 25, 2019 at 7:30p.m.* Parra seconded the motion and all voted in favor.

**8:10 p.m. Pesticide Use at Spaulding Field:** Vanessa Moroney of 142 Bedford Road was present to discuss the Recreation Commission's (RecCom) proposed use of pesticides for grub control at Spaulding Field following their decision to revert to chemical pesticides following a multi-year organic treatment program that required more frequent applications and was therefore found to be not economical.

Moroney said their property is located directly across from Spaulding Field, causing concern about the health and safety of their water supply well and concerns about potential effects on aquatic wildlife within the vicinity. She said she has brought her concerns to RecCom and to the Board of Health as well. RecCom will be taking a vote on the subject at their next meeting and the Board of Health has indicated they plan to obtain additional information about potential human health effects due to groundwater contamination.

The Commission explained to Moroney that the issue is not within their jurisdiction since the Massachusetts Wetlands Protect Act regulates herbicide use near wetlands but does not include pesticide regulations. Additionally, state regulations pre-empt local regulations, preventing the inclusion of greater regulations within the local bylaw.

**8:30 p.m. (DEP 125-1000) ORAD Extension Request: South Street, Parcels 54 & 56; Applicant: Attorney Howard S. Fisher on behalf of Ira Nagel, Trustee, Inga L. MacRae Trust; Issued: 5/5/2016; Expires 5/5/2019:** Parra recused himself from the discussion, stating he has known Ira Nagel very well on a professional basis for several years. He further stated Ira Nagel had approached him some time ago about representing him before the Conservation Commission, and although there was no substantive discussion, he would need the Commission to make a determination in this regard and Ira Nagel to waive that issue.

Willard reported she has been informed by Attorney Fisher that the land has been in litigation between family members for a number of years and now the property will be marketed for sale. Since the issuance of the ORAD on this nearly 25-acre property, there has been no follow up activity or submission of engineered plans. The concern is that the wetland delineation is nearly expired and no owner, proposed project, or engineered plan are on the horizon. Under the WPA Regulations (10.05(8) (b)1, the Commission has the option of denying the request for an extension "where no work has begun on the project, except where such failure is due to an unavoidable delay such as appeals, in the obtaining of other necessary permits." This option would require submission of a new ANRAD with fees.

Alternately the Commission could consider approving the request for an extension, subject to the replacement of the wetland flags by survey and a peer review of the delineation (previously peer reviewed by Dr. John Rockwood in 2016). A concern with this approach is the amount of office and field staff time that will be required in conjunction with this review process without the offset of the ANRAD fees.

The Commission deferred their decision on the matter to the next meeting when the representative can be present and when quorum requirements can be satisfied.

**(DEP 125-0916) OOC Extension Request: 570 West Street, Lions Gate Development. Project: Work including a subdivision roadway with stormwater management features, fire cistern, pathway, underground utilities, and landscaping. Expires 4/20/2019; Requesting two-year extension:**

Willard reported attending the Planning Board's previous meeting at their request, where they were considering owner/developer John Pearson's request for an 18-month extension for the subdivision permit. Due to all the problems and delays over the past three years on this project, the Planning Board voted to issue a 6-month extension only to October 1, 2019, with the requirement that the owner appear at a September meeting with a progress report. Willard said she informed Mr. Pearson and the Planning Board at that time that the Order of Conditions would expire on 4/20/2019. Mr. Pearson immediately provided Willard with a written request for the Extension to the Order of Conditions and the \$100 CWP bylaw fee. According to the Wetland regulations, 10.05(8)(a), the request must be submitted at least 30 days prior to the expiration date. In this case, the request was five days late.

Although the project is well underway, major deficiencies needing to be addressed immediately include: confirmation that all wetland flags on the Plan of Record are in place by survey and numbered so they can be reviewed prior to the next meeting; repair of the previously identified siltation/erosion control issues including the requirement that the erosion control barrier along the roadway be repaired; completion of the stormwater management system including the stormwater wetland, which is only roughed out at this point. The Commission was generally in favor of giving the request for an extension further consideration at their next meeting, subject to a report from Willard following her upcoming meeting with the owner and engineer at the site and to the submission of a proposed completion schedule.

### **Project Updates:**

**162 Nowell Farme Road - Eric Flemming: After-the-fact NOI submission for unpermitted tree removal within the 100-foot Buffer Zone; pending since May, 2018; deadline for confirmation Oxbow Associates of NOI in progress - March 21, 2019**

*Tatistcheff moved to authorize the previously-issued Enforcement Order dated March 27, 2019 as discussed at the March 14, 2019 meeting. Lindquist seconded the motion and all voted in favor.*

**Bedford Road/Woodward Village - Water Supply Well Update:** Careful work to allow for salamander and wood frog passage through the erosion control barrier was undertaken prior to the rainstorm of last week.

**967 West Street:** Willard reported the property owner will be submitting an After-the-fact filing shortly for some unpermitted work undertaken on this property within a resource area. An Enforcement Order was not issued because progress toward a filing has been rapid and fairly comprehensive - the wetlands have been flagged and engineering plans have been developed.

### **Misc/New/Pending Business:**

**Town Meeting Warrant Article Support:** The Commission will consider/discuss votes of support for the following TM Warrant Articles at their next meeting: Citizens' Petition - Deer Hunting General Bylaw Amendment; Right to Farm General Bylaw Amendments; Solar District Zoning District Revisions. It was noted that a vote of support for funding of a Town Master Plan was taken at the previous meeting.

**FY20 Budget Update:** Verge reported she and Willard met with the BOS at their previous meeting. She said it initially appeared they may be willing to approve either the additional 5 hours per week or the request for grade change from 5 to 6, depending on the Commission's preference. However, when they asked what percentage of the work outlined in the Grade 6 Position Description is currently being done by the Administrative Assistant, which is estimated at a minimum of 80 percent, the BOS were then leaning toward the grade change, since the current AA is already doing most of the work. Ultimately no vote was taken and the BOS will be meeting with the Finance Committee on Monday, April 1 to make a final determination.

**SuAsCo Wild & Scenic River Stewardship Council - Riverfest 2019:** The Commission will sponsor the Annual Sunrise Canoe and Paddle trip on the Concord River on Sunday, June 23, 2019

### **Conservation Land Management:**

#### **Woodward Conservation Land, CR #68: Municipal Certification:**

*Tatistcheff moved the Commission sign the Municipal Certification document confirming this proposed Conservation Restriction is in the public interest in that it maintains in perpetuity the natural, scenic, forested, agricultural and open space condition of the land and prevents any use/change that would impair or interfere with the conservation values of the land. Lindquist seconded the motion and all voted in favor.*

### **Committee Liaison Reports:**

**Cranberry Bog Working Group (CBWG):** Following some confusion regarding the appointment process for this subcommittee and after conferring with the Town Clerk, the BOS determined CBWG members must be appointed by the Commission, not the BOS. *Tatistcheff moved to appoint Alex Parra and Dan Wells to the Cranberry Bog Working Group effective immediately, Lindquist seconded the motion and all voted in favor.*

**Community Preservation Committee (CPC):** Verge reported funding for the Greenough Dam Repair and Open Space and Recreation Plan Update have been approved by CPC to be included in Town Meeting Warrant. She will be attending an upcoming meeting of the Recreation Commission, the Historic Commission and the Master Plan Steering Committee to request their support at Town Meeting.

9:20 p.m. *Lindquist moved to adjourn, Parra seconded the motion and all voted in favor.*

Respectfully submitted,  
Mary Hopkins  
Administrative Assistant

**DOCUMENTS PRESENTED:**

Bedford Road/Now Communities: Landscape Plan; Ryan Associates dated 2/6/2019 (ROSC submittal)